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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,091	05/08/2006	Frank L Greenway	Greenway 02P01US	1228

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PATENT DEPARTMENT
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EXAMINER

WINSTON, RANDALL O

ART UNIT	PAPER NUMBER
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1655

MAIL DATE	DELIVERY MODE
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06/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/559,091	Applicant(s) GREENWAY ET AL.	
	Examiner Randall Winston	Art Unit 1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-138 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-138 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121 and 372:

This application contains the following inventions or groups of inventions which are not so linked as to form a single inventive concept under PCT 13.1:

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I. Claims 1-30, drawn to a first method of using: a method of ameliorating or prevent angiogenesis and/or decreasing the size of an existing capillary network in a mammal comprising administering an effective amount of gallic acid or its derivatives.

Group II. Claims 31-72, drawn to a second method of use: a method of ameliorating or prevent angiogenesis and/or decreasing the size of an existing capillary network in a mammal comprising administering an effective amount of an active plant extract.

Group III. Claims 73-76 and 105-107, drawn to a first product: an anti-angiogenic composition wherein said composition is more soluble in alcohol than in water etc.

Group IV. Claims 77-104 and 108-135, drawn to a third method of use: a method of ameliorating or prevent angiogenesis and/or decreasing the size of an

Art Unit: 1655

existing capillary network in a mammal comprising administering an effective amount of claims 73-76 and 105.

Group V. Claims 136-138, drawn to a second product: a composition comprising admixture of a plant extract and an adjuvant.

The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT 13.1, because under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The special technical feature of each method and/or composition is as follows:
The special technical feature of Group I is a method of ameliorating or prevent angiogenesis and/or decreasing the size of an existing capillary network in a mammal comprising administering an effective amount of gallic acid or its derivatives and The special technical feature of Group II is a method of ameliorating or prevent angiogenesis and/or decreasing the size of an existing capillary network in a mammal comprising administering an effective amount of an active plant extract and The special technical feature of Group III is an anti-angiogenic composition wherein said composition is more soluble in alcohol than in water etc and The special technical feature of Group IV is a method of ameliorating or prevent angiogenesis and/or decreasing the size of an existing capillary network in a mammal comprising administering an effective amount of claim 73-76 and 105 and The special technical feature of Group V is a composition comprising admixture of a plant extract and an adjuvant.

Thus, Groups I, II and IV are unrelated methods because each method comprise of different active steps and/or the utilization of different compounds to obtain their preamble objectives and thus do not share a special technical feature.

Moreover, Groups III and V are unrelated compositions because each composition comprises of different active ingredients.

Furthermore, Groups III and V are an unrelated composition to Groups I, II and IV's methods because the products as claimed can be used in a materially different process of using that product such as treating various diseases such as diabetic retinopathy or malignant tumor growth etc. and thus do not share a special technical feature.

For the reasons above, the inventions of Groups I-V do not share a special technical feature.

In addition, this application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

A. The instantly claimed angiogenic-associated disease and instantly claimed capillary network-associated disease (e.g. as recited in claims 2-7, 18-22, 32, 41-44, 53-54, 62-65, 79-83, 92-97, 109-114 and 123-128)

Art Unit: 1655

B. The instantly claimed gallic acid derivative (e.g. as recited in claims 14 and 29)

C. The instantly claimed additional compound (e.g. as recited in claims 15, 30, 31, 72, 77, 104, 121 and 135)

D. The instantly claimed active plant extract (e.g. as recited in claims 34-40 and 55-61)

E. The instantly claimed active plant extract as recited in claim 136(a)

F. The instantly claimed adjuvant as recited in claim 136(b)

Applicant is required, in reply to this action, to elect a single species from Groups A and Group B and Group C and Group D and Group E and Group F to which the claims shall be restricted if no generic claim is finally held to be allowable (please note, for example, from Group A, elect one species of obesity or corneal etc. or from Group B, elect one species of tannic acid or glyceryl trigallate etc or from Group E, elect one species of *Diospyros khaki* or *Rubus occidentalis* etc.)

The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The following claim(s) are generic: claims 1-138

The species listed above relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The instantly claimed products of Groups III and IV are of different active ingredients which requires a different search for each product and the instantly claimed methods are of different active steps to obtain its claimed preamble objective which requires a different search for each method.

Applicant is advised that the reply to this requirement to be completed must include an election of the invention to be examined even though the requirements be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Winston whose telephone number is 571-272-0972. The examiner can normally be reached on 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1655

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele Flood/

Primary Examiner, Art Unit 1655